

**SINGAPORE**  
**Prepared by Anne Choo**  
**CitiLegal LLC**

**1. Are there any laws that govern a layoff of employees? If so, what do the laws require?**

If the employees and employer are parties to a collective agreement with a union, then the terms of the collective agreement would apply. In the absence of a collective agreement or any contractual provisions between the employee and employer (whether contained in the employment letter or any employee handbook or policy) providing otherwise, there is no general legislation governing a retrenchment exercise. The only legislation that applies is the Singapore Employment Act that lays out minimum notice periods prior to termination.

However, there are guidelines that have been recently issued by the tripartite partners (Ministry of Manpower or “MOM”, Singapore National Employer’s Federation, and the National Trades Union Congress) known as the Employer’s Guide to Saving Jobs in the Business Downturn as well as the Tripartite Guidelines on Managing Excess Manpower (revised as at 17 May 2009) (collectively “Guidelines”). These Guidelines provide as follows (amongst others): a retrenchment exercise is a last resort only entered after alternative solutions have been considered and exhausted; union/workers have been consulted on the impending retrenchment; MOM has been notified about the impending retrenchment (in the prescribed form); advance notice has been given to affected workers; the reason(s) for retrenchment have been communicated clearly; terms of the retrenchment benefits have been agreed upon; and earned statutory benefits such as unused leave, have been paid and notice pay given. Further, any agreements made with affected workers under the contract of service or collective bargaining agreement with the union, are upheld. Assistance must be is provided to affected workers where possible, such as to look for alternative jobs. Finally, arrangements must be made for affected workers to undergo skills training. The Guidelines do not have the force of law. However, where complaints are made to MOM and upon investigation, MOM finds that an employer has acted contrary to the Guidelines, MOM may reprimand the employer and/or exercise its discretionary powers in other areas (for eg. the granting of future employment pass applications by such an employer).

The length of notice to be given to workers depends on the employment contract and the collective agreement. If their contracts or collective agreements do not provide for notice periods, the length of notice will be calculated based on what is considered reasonable. For employees falling under the purview of the Singapore Employment Act, the minimum notice periods below apply.

<b>Length of Service</b>	<b>Notice Period</b>
Less than 26 weeks	1 day
26 weeks to less than 2 years	1 week
2 years to less than 5 years	2 weeks
5 years and above	4 weeks

**2. Are there any formal requirements for terminating an employee or groups of employees?**

Any formal requirements under any collective agreements and/or the employment contract must be complied with; usually this would require notice in writing to be given by the employer and served in accordance with the collective agreement and/or employment contract.

**3. Are there special legal requirements for a layoff caused by redundancy in the workforce?**

No, unless any applicable collective agreements or contractual provisions in the employment contract state otherwise. However, when termination of employment occurs due to a redundancy, the question of whether severance or retrenchment benefits apply arises.

**4. Are there employment laws that laid-off employees can use to challenge their inclusion in the layoff?**

If the employment contract clearly states that employment may be terminated with notice without any reasons, then no reasons need to be stated for the termination. However, if the contract merely states that the employment may be terminated with notice, an employee may challenge the termination by alleging it was not done in good faith. It is worth noting that the law in this area is not settled, and in general, it would be difficult for an employee to raise this argument.

More specifically, for employees that fall within the purview of the Singapore Employment Act, if the employee considers that he has been dismissed without just cause or excuse by his employer, he may within one month make representations to the Minister for reinstatement. Thus, employers should not dismiss employees for other reasons under the guise of a general layoff.

**5. What sanctions or penalties may be imposed against employers for violating any of the requirements mentioned in Nos. 1-4 above?**

A breach of a contract or of a collective agreement would give rise to a claim under contract law. The Guidelines do not have the force of law, but a breach of the Guidelines may result in a public reprimand from MOM and may possibly have other indirect effects due to the regulation by government authorities of other areas such as the issuance of employment passes.

**6. What are the one or two most common mistakes that employers make that lead to liability for a layoff?**

Not applicable.

**7. What other employment issues are likely to arise from a layoff in your jurisdiction that you have not addressed in your answers to the previous questions?**

Generally, one main issue that arises in retrenchment exercises is whether contracts can be terminated and if so, how much notice is required. Another issue is what kind of compensation the employer has to give to employees in relation to the termination. Usually, the standard compensation would include accrued salary, payment for the notice

period (if the employer is opting to give payment in lieu of notice), unused leave and payment for any other benefits the employee would have received during the notice period. Should any severance or retrenchment payments exist, these will have to be addressed as well. The Guidelines state that employees with 3 years' service or more in the company are eligible to claim retrenchment benefit, but that the quantum of such benefit depends on what is provided for in the collective agreement or contract of service, and that if there is no provision, the quantum is to be negotiated between employer and employee (or their trade union, if applicable). The Guidelines go further to say that the prevailing norm is to pay between 2 weeks to 1 month's salary for every year of service, and that if retrenchment follows a wage cut, that the pay out should be based on the salaries before the wage cut. Thus, whilst the position remains that there is no legislation mandating that an employer must pay retrenchment benefits (if there is no such obligation contractually or with the trade union), the authorities appear to be encouraging employers, wherever possible, to negotiate a fair retrenchment package for retrenched employees

If a termination of employees is in relation to a transfer of employees pursuant to transfer of an undertaking or business within the meaning of section 18A of the Employment Act, the provisions of section 18A apply. It generally provides for notifications and transfer of liabilities between transferor (seller) and transferee (purchaser).